REMARKS/ARGUMENTS

35 U.S.C. §102 & §103 Rejections

The Office Action has rejected claims 1-3, 5-6, 8-9 and 20 under 35 U.S.C. §102(b) as being anticipated by cited portions of U.S. Patent No. 5,724,646 to Ganek et al. ("Ganek"). Further, the Office Action has rejected claims 4, 7 and 10-19 under 35 U.S.C. §103(a) as being unpatentable over Ganek in view of cited portions of U.S. Patent No. 5,589,892 to Knee et al. ("Knee").

The claims require pre-storing a portion of the program prior to the user request for the program. In one embodiment, this allows substantially immediate playback of the program from a NVOD line-up. In contrast, Ganek only teaches or suggests that the user wait a lead-in time period ($T_{lead-in}$) as a maximum delay before viewing the program. Ganek, col. 4, lines 13-24. Granted, this $T_{lead-in}$ can be substantially less than the prior art, for example, Ganek teaches that $T_{lead-in}$ could be less than a minute. Ganek, col. 8, lines 11-13. Clearly, viewers do not wish to wait for their program to become available and even a substantially reduced delay is not desired.

As understood by the Applicants, the Office Action seems to take the position that the buffering of a program occurs before a user request in Ganek. Applicants can find no such teaching or suggestion in Ganek. Office Action, page 3, first paragraph, last clause. Indeed, Ganek consistently teaches that buffering occurs after the time of a user request (T_{req}). In Fig. 2d, T_{req} appears to the left in a time line to the "Buffer Store" line that indicates the start of buffering. On col. 2, lines 18-20, indicate that buffer storeage is "responsive to the request for the video program." Ganek goes on to teach "a buffer for storing the selected in-progress transmission of the video program . . . ." Ganek, col. 2, lines 52-53. In Fig. 3 of Ganek, T_{req} occurs in step **430**, which is followed by step **440** where buffering begins. With all due respect, Applicant cannot agree that Ganek teaches the claims and requests reconsideration in light of the forgoing argument.

Appl. No. 09/687,138
Amdt. dated May 17, 2004
Amendment under 37 CFR 1.116 Expedited Procedure
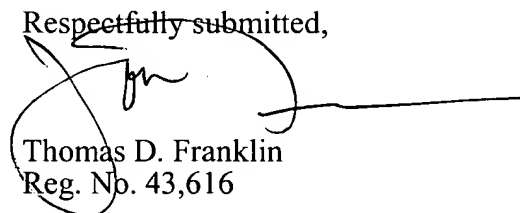Examining Group 2611

PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this

Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of

this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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